

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210



FEB 15 2012

The Honorable Andrew Cuomo
Governor of New York
State Capitol
Albany, New York 12224

Dear Governor Cuomo:

We are pleased to be able to respond to your request for waivers of statutory and regulatory requirements under the Workforce Investment Act (WIA). These requests are written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c), and meet the standard for approval at 20 CFR 661.420(e). The following is the disposition of the State's submission (copy enclosed). This action is taken under the Secretary's authority to waive certain requirements of WIA Title I, Subtitles B and E, and Sections 8-10 of the Wagner-Peyser Act.

Requested Waivers

Waiver of WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d) to exempt the state from the requirement to conduct evaluations.

The State is requesting a waiver of the requirement to conduct evaluations of workforce investment activities for adults, dislocated workers, and youth in order to establish and promote continuous improvement of the statewide workforce investment system. The State is granted this waiver effective July 1, 2011 through June 30, 2012. This waiver only applies to Program Year 2011 WIA funds.

Waiver of WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e) to exempt a state from the requirement to provide local workforce investment area incentive grants.

The State is requesting a waiver of the requirement to provide local workforce investment areas incentive grants to reward regional cooperation, local coordination of activities, and exemplary performance. The State is granted this waiver effective July 1, 2011 through June 30, 2012. This waiver only applies to Program Year 2011 WIA funds.

Waiver of 20 CFR 665.200(b)(3) to exempt the state from the requirement to disseminate training provider performance and cost information.

The State is requesting a waiver of the requirement to disseminate training provider performance and cost information. The State is granted this waiver effective July 1, 2011 through June 30, 2012. This waiver only applies to Program Year 2011 WIA funds.

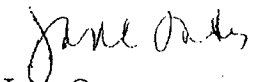
Requested Waiver: Waiver of WIA Section 134(a)(1)(A) to permit a portion of the funds reserved for rapid response activities to be used for required statewide activities, specifically local area incentive grants.

The State is requesting a waiver to permit use of rapid response funds to conduct required statewide activities as defined under WIA Section 134(a)(2)(B), specifically providing incentive grants to local areas. ETA denies this waiver. ETA believes that rapid response funds should only be used for services to dislocated workers. The State's request fell outside these parameters. The statute and regulations do, however, allow the State to provide rapid response funds to local areas under certain conditions. It may provide local areas with rapid response funds to provide additional assistance to local areas that experience increased numbers of unemployed individuals (20 CFR 665.340). Also, while WIA allows the state to reserve up to 25 percent of dislocated worker funds for rapid response activities, the state may reserve less and instead provide funds directly to local areas under the formula allocation.

The approved waivers are incorporated by reference into the State's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and it constitutes a modification of the State Plan. A copy of this letter should be filed with the State's WIA Grant Agreement and the approved State Plan. In addition, as described by TEGL No. 09-10, the State should address the impact its waivers have had on the State's performance in the WIA annual performance report, due on October 1 of each year.

We look forward to continuing our partnership with you and achieving better workforce outcomes. If you have any questions related to the issues discussed above, please contact Tricia Reynolds, the Federal Project Officer for New York, at (617) 788-0130 or Reynolds.Tricia@dol.gov.

Sincerely,



Jane Oates
Assistant Secretary

Enclosures

Workforce Investment Act Waiver Request

Waiver from the requirement to conduct evaluations (WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d)).

Date: 11/30/2011

State: New York State

Agency: New York State Department of Labor

Statutory and/or regulatory requirements to be waived

Waiver of WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d) requiring the conduct of evaluations of workforce investment activities for adults, dislocated workers, and youth.

Actions undertaken to remove state or local barriers

There are no state or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

The reduction to five percent in the WIA allotment for Program Year 2011 Governor's Reserve funds restricts the state's ability to effectively fund and carry out all of the required statewide workforce investment activities. The current funding level in the Governor's Reserve is insufficient to cover the cost of evaluations. The state's reduced funds are being used to cover the following required activities:

- operating fiscal and management accountability information systems (WIA Section 134(a)(2)(B)(vi) and 20 C.F.R. 665.200(b)(1));
- submitting required reports (WIA Section 136(f));
- disseminating the list of eligible training providers for adults and dislocated workers (WIA Section 134(a)(2)(B)(i) and 20 C.F.R. 665.200 (b)(1)), and youth activities (20 C.F.R. 665.200(b)(4)), and;
- providing technical assistance to poor performing local areas (WIA Section 134(a)(2)(B)(iv) and 20 C.F.R 665.200(f)).

Our goal in seeking this waiver is to ensure that the state may prioritize the use of Governor's Reserve funds for the required activities we deem most essential to the basic functions of the workforce investment system.

Individuals impacted by the waiver

This waiver will provide the state agency with more flexibility in directing Governor's Reserve funds to those activities that best preserve basic functions of the statewide workforce investment system.

Process for monitoring progress in implementation

New York State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system. All other monitoring and feedback will continue as described above.

Notice to affected local boards

Should the waiver be granted, the Department would issue a Technical Advisory (TA) that will be disseminated to Chairpersons of Local Workforce Investment Boards, Chief Elected Officials, WIA Grant Recipients, WIA Fiscal Agents and WIA Local Area Contact Persons. The TA will also be posted on the New York State Department of Labor's web-site at: <http://www.labor.state.ny.us/workforcenypartners/tas.shtm>.

Public Comment

Notice of the waiver request was posted on the New York State Department of Labor's home page at: <http://www.labor.ny.gov/home/>. A 15-day comment period was allowed. No comments were received.

Workforce Investment Act Waiver Request

Waiver from the requirement to disseminate training provider performance and cost information (20 CFR 665.200(b)(3))

Date: 11/30/2011

State: New York State

Agency: New York State Department of Labor

Statutory and/or regulatory requirements to be waived

Waiver of WIA 20 CFR 665.200(b)(3) requiring dissemination of training provider performance and cost information.

Actions undertaken to remove state or local barriers

There are no state or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

The reduction to five percent in the WIA allotment for Program Year 2011 Governor's Reserve funds restricts the state's ability to effectively fund and carry out all of the required statewide workforce investment activities. The current funding level in the Governor's Reserve is insufficient to cover the cost of dissemination of training provider performance and cost information. The state's reduced funds are being used to cover the following required activities:

- operating fiscal and management accountability information systems (WIA Section 134(a)(2)(B)(vi) and 20 C.F.R. 665.200(b)(1));
- submitting required reports (WIA Section 136(f));
- disseminating the list of eligible training providers for adults and dislocated workers (WIA Section 134(a)(2)(B)(i) and 20 C.F.R. 665.200 (b)(1)), and youth activities (20 C.F.R. 665.200(b)(4)), and;
- providing technical assistance to poor performing local areas (WIA Section 134(a)(2)(B)(iv) and 20 C.F.R 665.200(f)).

Our goal in seeking this waiver is to ensure that the state may prioritize the use of Governor's Reserve funds for the required activities we deem most essential to the basic functions of the workforce investment system.

Individuals impacted by the waiver

This waiver will provide the state agency with more flexibility in directing Governor's Reserve funds to those activities that best preserve basic functions of the statewide workforce investment system.

Process for monitoring progress in implementation

New York State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards

Should the waiver be granted, the Department would issue a Technical Advisory (TA) that will be disseminated to Chairpersons of Local Workforce Investment Boards, Chief Elected Officials, WIA Grant Recipients, WIA Fiscal Agents and WIA Local Area Contact Persons. The TA will also be posted on the New York State Department of Labor's web-site at:
<http://www.labor.state.ny.us/workforcenypartners/tas.shtm>.

Public Comment

Notice of the waiver request was posted on the New York State Department of Labor's home page at: <http://www.labor.ny.gov/home/>. A 15-day comment period was allowed. No comments were received.

Workforce Investment Act Waiver Request

Waiver to use up to 6 percent of Rapid Response funds to provide incentives for exemplary performance to eligible local workforce areas.

Date: 11/30/2011

State: New York State

Agency: New York State Department of Labor

Statutory and/or regulatory requirements to be waived

Waiver of WIA §134(a)(2)(A) to reserve dislocated worker funds to provide statewide rapid response activities.

Actions undertaken to remove state or local barriers

There are no state or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

The reduction to five percent in the WIA allotment for Program Year 2011 Governor's Reserve funds restricts the state's ability to effectively fund and carry out all of the required statewide workforce investment activities. The current funding level in the Governor's Reserve is insufficient to cover the cost of dissemination of training provider performance and cost information. The state's reduced funds are being used to cover the following required activities:

- operating fiscal and management accountability information systems (WIA Section 134(a)(2)(B)(vi) and 20 C.F.R. 665.200(b)(1));
- submitting required reports (WIA Section 136(f));
- disseminating the list of eligible training providers for adults and dislocated workers (WIA Section 134(a)(2)(B)(i) and 20 C.F.R. 665.200 (b)(1)), and youth activities (20 C.F.R. 665.200(b)(4)), and;
- providing technical assistance to poor performing local areas (WIA Section 134(a)(2)(B)(iv) and 20 C.F.R. 665.200(f)).

However, the State believes that it is important to provide incentive funds to local workforce areas that demonstrate exemplary performance. Given the reduction in Governor's discretionary funds, we will not have adequate funding to provide such incentives. Permitting the State to use a modest portion of the funds set aside for statewide rapid response activities would enable us to award incentives to local areas that achieved exemplary performance.

Individuals impacted by the waiver

This waiver will permit the state agency to offer incentive funding to local areas that achieved exemplary performance.

Process for monitoring progress in implementation

New York State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards

Should the waiver be granted, the state would issue incentives in accordance with the guidelines specified in Technical Advisory (TA) #10-13. Letters will be issued to Chairpersons of Local Workforce Investment Boards, Chief Elected Officials, WIA Grant Recipients, WIA Fiscal Agents and WIA Local Area Contact Persons notifying them of their awards.

Public Comment

Notice of the waiver request was posted on the New York State Department of Labor's home page at: <http://www.labor.ny.gov/home/>. A 15-day comment period was allowed. One comment was received and is attached along with the outcome of the state's review of this comment.

All comments received were taken into account when developing the final draft of this request.